

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RODNEY JAMES HOPKINS,

Plaintiff,

v.

Case No. 13-CV-1019-JPS

MILWAUKEE SECURE DETENTION
FACILITY, JOHN DOE *Warden*, JANE
DOE *Nurses*, DOC ICE PROCESS, and
JOHN/JANE DOE *Medical Supervisor*,

Defendants.

ORDER

On August 23, 2017, Plaintiff filed a motion related to payment of the filing fee in this matter. (Docket #24). Plaintiff states that funds have been taken from his prison trust account in violation of 28 U.S.C. § 1915(b)(2). That statute provides:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). Plaintiff believes that the Wisconsin Department of Corrections ("DOC") should not be permitted to take any funds from his account *until* it reaches at least a \$10.00 balance. He claims that the DOC has continually debited his account even though it has never reached \$10.00. Plaintiff asks that the improperly taken funds be returned to him.

Plaintiff's motion must be denied for two reasons. First, he provides no evidence whatsoever to support his claim. Second, Plaintiff misreads the

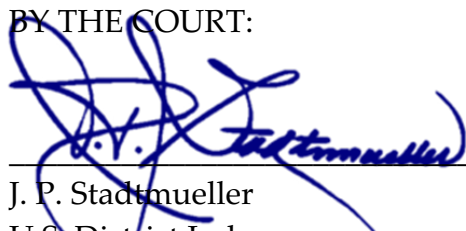
statute. The first sentence requires him to pay twenty percent of the preceding month's income towards the filing fee. The second instructs the DOC to forward any of those collected amounts to the Clerk of the Court once they total more than \$10.00. In other words, the \$10.00 figure has no relation to the DOC's duty to make monthly draws on Plaintiff's account until the fee is fully paid. The DOC is entitled to debit Plaintiff's trust account for twenty percent of the preceding month's income, regardless of the account's balance. Once that process results in a sum of more than \$10.00 (which may take a substantial amount of time), the DOC must forward the amount to the Clerk of the Court.

Accordingly,

IT IS ORDERED that Plaintiff's motion for return of filing fee payments (Docket #24) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 31st day of August, 2017.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge